

Docket No.: J07-166805M/AIO  
MGB 366

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

Yoshiyuki Ando. et al.

Serial No.: 10/780.910

Group Art Unit: 3748

Filing Date: February 19, 2004

Examiner: Unknown

For: NOZZLE VANE DRIVING CONTROL APPARATUS OF VARIABLE  
NOZZLE TURBOCHARGER

Honorable Commissioner of Patents  
Alexandria, VA 22313-1450

**SUBMISSION OF DECLARATION**

Sir:

In response to the Notice to File Missing Parts of Nonprovisional Application (copy attached), dated May 13, 2004, submitted herewith is the signed declaration for the above-identified patent application, along with our check in the amount of \$940 to cover the \$770 application fee, the \$130 surcharge for the late filing of the declaration, and \$40 for the assignment recordation fee.

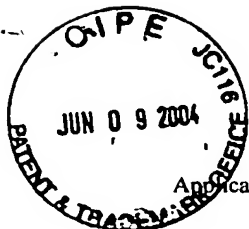
Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-0481.

Respectfully submitted.



Sean M. McGinn, Esq.  
Registration No. 34.386

Date: 6/9/04  
McGinn & Gibb, PLLC  
Intellectual Property Law  
8321 Courthouse Road, Suite 200  
Vienna, VA 22182-3817  
(703) 761-4100  
Customer No. 21254



Application for United States Patent

### DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

NOZZLE VANE DRIVING CONTROL APPARATUS OF VARIABLE NOZZLE TURBOCHARGER

the specification of which:  
(check one)

X (is attached hereto)  
was filed on February 19, 2004  
as Application No. 10/780,910  
and was amended on \_\_\_\_\_ (if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56\*

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			priority claimed	
<u>P2003-042583</u>	<u>Japan</u>	<u>20/February/2003</u>	<u>X</u>	_____
(Number)	(Country)	(Day/Month/Year Filed)	yes	no
_____	_____	_____	yes	no
(Number)	(Country)	(Day/Month/Year Filed)		
_____	_____	_____	yes	no
(Number)	(Country)	(Day/Month/Year Filed)		

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Application Serial No.)	(Filing Date)	(Status: patented, pending, abandoned)
--------------------------	---------------	--

**Power of Attorney:** As a named inventor, I hereby appoint Sean M. McGinn, Reg. No. 34, 386, and Frederick W. Gibb, III, Reg. No. 37,629, as attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. All correspondence should be directed to **McGinn & Gibb, PLLC, Customer No.21254, 8321 Old Courthouse Road, Suite 200, Vienna, Virginia 22182-3817**. Telephone calls should be directed to McGinn & Gibb, PLLC at (703) 761-4100.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Sole  
Joint Inventor, If Any Yoshiyuki ANDO  
Inventor's Signature Yoshiyuki Ando Date May 25, 2004  
Residence Yokohama-shi, Kanagawa, Japan  
Citizenship Japan  
Post Office Address c/o JIDOSHA DENKI KOGYO CO., LTD., 1760 Higashi Matano-cho, Totsuka-ku, Yokohama-shi,  
Kanagawa 245-8510 Japan

Full Name of Second  
Joint Inventor, If Any Takumi ARAO  
Inventor's Signature Takumi ARAO Date May 25, 2004  
Residence Yokohama-shi, Kanagawa, Japan  
Citizenship Japan  
Post Office Address c/o JIDOSHA DENKI KOGYO CO., LTD., 1760 Higashi Matano-cho, Totsuka-ku, Yokohama-shi,  
Kanagawa 245-8510 Japan

Full Name of Third  
Joint Inventor, If Any Takaaki SEKINE  
Inventor's Signature Takaaki Sekine Date May 25, 2004  
Residence Yokohama-shi, Kanagawa, Japan  
Citizenship Japan  
Post Office Address c/o JIDOSHA DENKI KOGYO CO., LTD., 1760 Higashi Matano-cho, Totsuka-ku, Yokohama-shi,  
Kanagawa 245-8510 Japan

Full Name of Fourth  
Joint Inventor, If Any Haruo SAITO  
Inventor's Signature Haruo Saito Date May 25, 2004  
Residence Yokohama-shi, Kanagawa, Japan  
Citizenship Japan  
Post Office Address c/o JIDOSHA DENKI KOGYO CO., LTD., 1760 Higashi Matano-cho, Totsuka-ku, Yokohama-shi,  
Kanagawa 245-8510 Japan

(An additional sheet(s) is/are attached hereto if the present invention includes more than four inventors.)

\*Title 37, Code of Federal Regulations, § 1.56:

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith toward the Patent and Trademark Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and (1) it establishes by itself or in combination with other information, a prima facie case of unpatentability; or (2) it refutes, or is inconsistent with, a position the applicant takes in: (i) opposing an argument of unpatentability relied on by the Office, or (ii) asserting an argument of patentability.